

CORRECTED FOR SPELLING, GRAMMAR, AND FORMAT

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In The Matter Of)	
)	
Amendment of the Commission's Rules)	MB Docket No. 03-185
to Establish Rules for Digital Low Power)	
Television, Television Translator, and)	
Television Booster Stations and to)	
Amend Rules for Digital Class A Television)	
Stations)	

COMMENTS OF THE
LPTV SPECTRUM RIGHTS COALITION

January 22, 2020

LPTV Spectrum Rights Coalition
Michael Gravino, Director
lptvcoalition@gmail.com
4849 Connecticut Ave NW #314
Washington, DC 20008
(202) 604-0747

EXECUTIVE SUMMARY

The LPTV Spectrum Rights Coalition (LPTV-SRC) has been for the past six (6) years representing the legal, licensing, and spectrum usage rights of Class-A, LPTV, and TV translator FCC licensees and permittees. We are a voluntary association of both large and small TV station operators, large station group owners, and the single licensee, all seeking a level playing field for our FCC spectrum usage rights.

Included in these research, analysis, and lobbying activities have been a vigorous defense of the TV6 87.7 FM radio service, and its' leading edge technological operations which are in full compliance of related FCC rules. Our Coalition was instrumental in 2015/2016 in obtaining a five (5) year extension of the analog sunset as well as all pending LPTV construction permits. The issues with the construction permits is playing itself out in the FCC Incentive Auction transition plan, with literally 1000's of new construction permits are now being authorized, funded, and starting to be built out. This five-year extension was proven to be vital to the industry as it gave it time to absorb the impacts from the incentive auction and its' on-going subsequent repacking and displacements.

There are no legal or technical barriers to extending the authorization of currently operating analog channel 6 LPTV stations to offer an analog 87.7 FM audio service after the LPTV digital transition. All that the FCC needs to do is to modify two rules applicable to digital LPTV stations. The Commission can within its' existing authority facilitate the technical ability of currently operating LPTV stations to offer a dual digital TV/analog audio service. These proposed actions by the FCC can both shorten the time needed for the transition to digital television while preserving an innovative analog audio service upon which millions of listeners have come to rely on.

Specifically, the FCC can amend its rules to allow currently operating analog TV6 LPTV stations to: (1) continue their analog TV transmissions after the digital transition on an authorized basis; and (2) utilize independent aural and visual transmitters, all subject to the existing requirement that they adhere to existing FCC rules which require they transmit a digital video signal that can be received by an ATSC receiver. Further, the FCC can carefully tailor these rules so they only apply to stations currently operating on analog channel 6, which will preserve the existing and valuable services upon which listeners have come to depend without imposing any additional burden on the Commission.

FCC QUESTIONS

I. ANCILLARY VS SUPPLEMENTARY BASIS?

The Commission asks whether or not a TV6 87.7 FM signal should be charged the 5% ancillary fee for airing the FM signal. The answer is no! 87.7 FM programmers, and their LPTV licensee owner, are providing the signal free to the public, and should not be charged any fee for doing what is allowable existing rulemaking. Whether a programming service is paying the station licensee a fee to air their programming is irrelevant, and all that matters is that the 87.7 FM signal is free to the public.

In the Fifth Report and Order on Advanced Television Services, the Commission defined an ancillary or supplementary service as “any service provided on the digital channel other than free, over the air services.” This is a logical distinction given the inclusion of other free, over-the-air services, such as multicast streams and digital audio services, as core broadcast services and not ancillary or supplementary services.

II. SHOULD ELIGIBILITY BE LIMITED?

The question of which channel 6’s should be eligible to continue 87.7 FM operations after the analog sunset is not a question the FCC can actually answer in any way but that eligibility should be extended to all existing channel 6 analog licensees, all current TV6 87.7 FM operators, and we would go so far to extend the analog service opportunity to all digital TV6 licensees. While the primary objective of our advocacy and lobbying for the industry to make sure the existing valuable TV6 87.7 FM services continue and not be shut down, we also are advocating for any TV6, analog or digital, be allowed to provide the FM service. This would be done using what others have described on a “dual-mode.”

The Commission should require that LPTV or other stations authorized to transmit a dual digital LPTV/analog audio signal provide a free, over-the-air video signal at all times that can be satisfactorily viewed on consumer receiving equipment for ATSC 1.0 or for the new next gen TV standard, ATSC 3.0. With this approach, the Commission will allow broadcasters to continue to innovate to provide the most efficient use of their 6 MHz spectrum. This is a key factor which makes LPTV unique in its’ mandate be at the leading edge of innovation, while ensuring that both: (1) viewers can experience the benefits of digital television service; and (2) listeners will continue to receive the existing 87.7 FM audio services upon which they have come to depend. The FCC’s existing rules include a technical framework for the Commission to provide broadcasters with flexibility to determine the optimal technical configuration for their digital LPTV and analog audio carriers while meeting minimum service standards.

III. WILL CAUSE IMPERMISSIBLE INTERFERENCE?

Vested interests within the radio service have expressed concerns in the past about interference from channel 6 stations broadcasting a dual digital TV/analog audio signal. These concerns are both highly exaggerated within these proceedings, and are easily managed in real world field engineering work. There are currently over 20 LPTV stations transmitting analog audio carriers available on 87.7 FM, yet the LPTV-SRC is not aware of any outstanding (not resolved to the satisfaction of the listener) complaints about actual interference between the audio signal transmitted by these analog LPTV stations and nearby FM stations on Channels 201 or 202.

However, if the Commission chooses to be overly cautious, it can adopt both contour overlap restrictions and prohibitions on actual interference that would eliminate any theoretical risk of interference between an 87.7 FM audio carrier and nearby NCE FM stations. In everyday real world operating conditions, the current or proposed expanded 87.7 FM services will not cause impermissible interference to other broadcast licensees in their markets.

IV. SHOULD BE SUBJECT TO PART 73 RULES?

LPTV TV6 operations using a 87.7 FM analog broadcast, either by itself, or in a digital dual mode, should be subject to both Part 73 and Part 74 rules, as needed to create a legal and technical efficient service. Since each of the stations referred to in this proceeding is currently licensed as an LPTV station and would continue to be licensed as an LPTV station, it does not make sense to subject these stations to the Part 73 technical rules for FM stations. Rather, these stations should be subject to the Part 74 technical rules applicable to LPTV stations, with the exception of the specific modifications discussed to protect both the digital video signal provided on the same LPTV channel and LPFM and NCE FM stations operating on channels 201 and 202.

Some examples of which rules the Commission should follow or change are:

- A. The Commission can include an exception to Section 74.731(m) to allow currently operating analog channel 6 LPTV stations to continue using a portion of their spectrum to provide an analog aural service on 87.7 FM following the digital transition.
- B. The Commission can amend Section 74.731(m) to preserve its original intent of hastening the benefits of the digital transition while avoiding the unintended loss of established and valued audio services on 87.7 FM.

- C. All LPTV stations, including those transmitting an analog audio carrier, would remain subject Section 74.795(b), which requires LPTV stations to utilize transmitters “designed to produce digital television signals that can be satisfactorily viewed on consumer receiving equipment based on the digital broadcast television transmission standard in § 73.682(d) of this chapter.”
- D. The Commission can revise Section 74.789 to extend the authority to operate separate aural and visual transmitters to the limited number of currently operating analog channel 6 LPTV stations that would be authorized to broadcast an analog audio signal after the digital transition.

V. ASSIGNMENT OR TRANSFER RULES

Channel 6 digital LPTV stations authorized to provide analog FM radio-type operations should be allowed to transfer such authorization and should continue to have the right to continue the analog operation after the transfer or new assignment to new licensee. The Commission will choose to grandfather the existing analog TV6 operations, expand the authorization to all digital channel 6’s, or choose to deny millions of minority listeners and viewers the programming they have become to rely on in their local communities, and in a language they can understand. The Commission has no authority to limit LPTV ownership based on any criteria except those already within its rules.

VI. COALITION RECOMMENDATIONS

- A. The Commission Should Grandfather Currently Operating Analog Channel Stations to Transmit an Analog Audio Carrier Following the LPTV Digital Transition.
- B. The Commission Can Facilitate the Continuation of Analog Audio Services on 87.7 FM After the Digital Transition Through Minor Changes to the FCC’s Existing Rules.
- C. The Commission Should Adopt Flexible Service and Interference Rules for Dual Digital LPTV/Analog Audio Operations
- D. None of the Other Issues Raised in the NPRM Should Serve As a Barrier to Extending the Public Interest Benefits of Existing Audio Services on 87.7 FM
- E. The Commission should reject all Comments submitted into this Proceeding which calls for the elimination of a lawful use of TV6 for 87.7 FM radio services owned and operated by LPTV licensees.